UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:18-cr-00047-MOC-DCK

UNITED STATES OF AMERICA,)
)
)
)
Vs.) ORDER
)
RODNEY FUNDERBURK,)
)
Defendant.)

THIS MATTER is before the Court on defendant's Motion to Vacate Conviction and Petition for Writ of *Coram Nobis*. Having determined, procedurally, that the petition and motion has been improperly filed in this matter -- but that it has properly been filed in 3:04cr121 -- the petition and motion herein will be denied without prejudice for the reasons discussed in 3:04cr121. Defendant is advised to file at the appropriate time herein the substance of such issue in the form of an Objection to the criminal history determination in the draft PSR and as a protective Motion for Variance.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion to Vacate Conviction and Petition for Writ of *Coram Nobis* (#20) is **DENIED** without prejudice.

Signed: June 1, 2018

Max O. Cogburn Jr

United States District Judge